SUBJECTS.

(8) Perjury was very common in the Courts and considerable miscarriage of justice was caused by such offenders being left unchecked. Considering the circuitous method of prosecution for perjury provided by the Criminal Procedure Code, it was very difficult, if not impossible, to have a perjurer punished, even if the prosecution was undertaken by the civil officers. The Member therefore suggested that perjury should be classed as an offence triable and punishable by the Courts themselves, as in the cases of contempts, subject of course to the usual appeals.

(9) The sanction of the High Court was required for the transfer of a case from one Court to another holding concurrent jurisdiction, as in the case of the Principal and Additional Munsiffs' Courts in the same station. That involved considerable delay. The Member proposed that such Munsiffs might be allowed to exchange cases as was done by the District and Additional Judges.

(10) Until recently, the system of depositing suitor's money in Court and of paying it immediately to the claimant thereof obtained under the High Court circulars. The recent rules of the Account Department deprived the parties of the convenience. Now, the party had to obtain a chellan, go to the treasury and deposit the money, and the claimant of the money had immediately to follow with a cheque and go through the formalities incidental to treasury business, to the great inconvenience of the parties. The Member requested that the old arrangement might be restored.

(11) Till very recently, refund of court fees used to be made from the permanent advance and the permanent advance recouped by a draft on the treasury, whenever necessary. A new circular from the Account Office put an end to the system and the party had now to go to the treasury to cash even the smallest order. The change caused great hardship to the public and annoyance to the treasury officers concerned. The Member therefore proposed that the old system might be re-established.

(12) Warrants of arrest of debtors were not being executed with that efficiency which the work really deserved, due to corruption on the part of the process servers and a general impression among the public that civil processes might be evaded with impunity. As for the first of the causes, the Member proposed that stringent orders should be issued to the Judicial officers to exercise greater control over the work of the process servers, and that, in regard to the second cause, the Courts themselves should be authorised to try offences under Section 589 of the Civil Procedure Code and punish the offenders, subject to the usual appeals.

Dewan's reply.—The remarks of the High Court will be invited on the Member's representations.

33. Suggestions for amending the Civil Procedure Code.

Mr. S. Ganapathy Pillai (Member, Trading Classes, Trivandrum) said that several provisions of the Code of Civil Procedure required amendment, and that he would deal with them in the order of sections.

LIBRARY ARCHIVES Kerala Legislative Assembly

SUBJECTS.

Section 54 provided for filing, along with the plaints, as many copies of concise statements of the nature of the claim made, and of the relief or remedy required in the suit, as there were defendants. They were being served on the defendants along with the summonses, with the object of enabling them to file their answers on the first date of hearing of the cause. But the object was never realised, and adjournments were invariably applied for and granted. To secure the wholesome object and avoid delay, the Member suggested the introduction of a provision in the Code, similar to what existed in British India (Order V, Rule 2 of the Civil Procedure Code of 1908) by which copies of plaints should be required to be filed with the plaints in lieu of the concise statements. He added that the same principle might with advantage be extended to all petitions and statements put in by either party to a cause during its pendency. In that matter, the practice in British India was to give a copy of the petition to the vakil on the opposite side, whose acknowledgment of acceptance was taken on it, and it would be allowed to be filed only with such acknowledgment.

Section 84 related to service of processes by registered post when the defendant lived out of Travancore. He said that, instead of literally following the provision, the Courts sent the processes by a circuitous route to the foreign Court, and in spite of all that, only substituted service was usually obtained. He suggested that the provision should be insisted on being rigidly followed, as in British India (Order V, Rule 25 of the British Indian Code of Civil Procedure).

Section 159 related to the production of a document by a person, for another party, in obedience to summons. In cases in which the document was sent to the Court, as contemplated in the section, the person who produced it was obliged later on to apply for its return on an eight anna stamp paper, and sometimes also incur the expenses of taking a copy of the same, besides the other inconveniences. As that was a hardship, he suggested that the party, at whose instance the document was produced, should be invariably required to deposit beforehand the necessary stamp and copying fees and the Court should see that the copy was immediately prepared and the original returned forthwith.

Section 218 contained provisions as to the Courts by which decrees might be executed. Under it, the original Court which passed a decree was alone competent to transfer, or get the transfer of, the decree from one Court to another for execution. The Member suggested that the executing Court should be given the power to transfer decrees sent to it to any other Court, at the instance of the decree-holder, without reference to the original Court which passed the decree, with the safeguard that the latter Court should be kept informed of such transfers.

Sections 225 & 227.—Agreeably to the principle underlying the amendment just proposed, the Member said that the executing Courts should also have power to implead assignees and representatives of judgment-debtors, a power now vested only in the Court which passed the decree.

LIBRARY ARCHIVES Kerala Legislative Assembly

SUBJECTS-

Section 415 related to suits by and against corporations and companies, registered and unregistered. He said that, in British India, by Order No. XXX, Rule 1, any two or more partners of a firm or company could sue and be sued in its behalf, and larger powers were also given to a party to compel a firm suing or sued to disclose the names of its partners. He suggested the introduction of similar provisions here.

Sections 456, 462 & 471.—There was at present no section in the Civil Procedure Code authorising a party to apply for arrest and attachment *after* decree and before copy thereof was obtained. Several alienations of properties were made by the judgment-debtor during that period. The Member said that, if Sections 456, 462 and 471 could not be construed to vest the power in the Courts, they might be modified so as to invest the Courts with the power, for being exercised at least when a reasonable case of emergency was made out.

Miscellaneous.—(1) He said that office copies of judgments and decrees should be caused to be taken promptly and copies issued to the parties expeditiously. At present there was inordinate delay and the circulars on the subject were not obeyed.

(2) The practice in British India was for the officers entrusted with warrants for arresting judgment-debtors to take their signatures as soon as they were arrested. The Member suggested the necessity of a similar provision here, in view to ensure the attendance in Court of the judgment-debtor soon after his first arrest.

(3) There was no provision for emergent processes in the Code as in British India. The Member said that provision should be made for issuing them from the Courts on payment by the parties of any extra charges that might be prescribed.

(4) The British Indian Code contained provision in Order XII, Rule 6, for the Courts to give judgments on admissions of fact made by any party at any stage of a suit, without waiting for the determination of any other question between the parties. He urged the necessity for embodying a similar provision in the Travancore Code.

In conclusion, the Member prayed for early action being taken to obviate the difficulties pointed out by him.

Dewan's reply.—The Government recognise that the Civil Procedure Code requires amendment in many particulars. The Member's suggestions are noted. A copy of his memorandum will also be sent to the High Court, who, I am sure, will take note of the suggestions.

34. The necessity for amending the Jenmi and Kudiyan Regulation.

Mr. Thrivikramar Vasudevar (Member, Jenmi, Trivandrum and Padmanabhapuram Divisions) said that the various Jenmi Members represented the hardships caused to the Jenmies on account of the Jenmi and Kudiyan Regulation, and that, in the sixth session of the Assembly, they were told that the matter would be enquired into. Subsequently, the Dewan Peishkars were asked to enquire into the matter, and on their

LIBRARY ARCHIVES Kerala Legislative Assembly